

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**EDDIE H. GILMAN**

Claimant

VS.

**OLATHE MEDICAL CENTER**

Respondent

Self-Insured

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Docket No. 211,937

**ORDER**

Respondent appeals from the preliminary hearing order of Administrative Law Judge Robert H. Foerschler dated April 14, 1997, wherein the Administrative Law Judge granted claimant ongoing medical treatment through the Miami County Mental Health Center for claimant's depression.

**ISSUES**

Whether claimant suffered accidental injury arising out of and in the course of his employment resulting in claimant's traumatic neurosis.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds as follows:

Appeals from preliminary hearings are limited by K.S.A. 44-534a, as amended, to specific jurisdictional issues regarding whether the claimant suffered an accidental injury, whether the injury arose out of and in the course of employment, whether notice is given or claim timely made, or whether certain defenses apply. The Appeals Board has held in the past that the issue dealing with whether or not a claimant's need for psychological treatment stems from the accidental injury is an issue dealing with the nature and extent of injury rather than accidental injury arising out of and in the course of employment. See

Love v. AIFAM Enterprises, Inc., Docket No. 190,944 (Sept. 1996). As such, the Appeals Board finds the claimant's entitlement to ongoing psychological counseling in this matter is not an issue which can be considered by the Appeals Board from an appeal of a preliminary hearing order. Therefore, the Appeals Board finds for preliminary hearing purposes the appeal by respondent in this matter should be dismissed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the appeal of the respondent in this matter should be, and is hereby, dismissed and the order of Administrative Law Judge Robert H. Foerschler dated April 14, 1997, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 1997.

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BOARD MEMBER

c: Michael R. Wallace, Shawnee Mission, KS  
Jeffrey S. Austin, Overland Park, KS  
Robert H. Foerschler, Administrative Law Judge  
Philip S. Harness, Director